

n represents an integer ranging from 1 to 4, and Z represents a -COOH or -OH group or a primary, secondary or tertiary amine group.

REMARKS

Reconsideration is requested.

Claims 1-6, 8-13 and 15-37 are pending.

The Examiner's indication of the claims 4-6 and 11-13 contain allowable subject matter is acknowledged, with appreciation. See, page 1 of the Office Action dated August 27, 2002 (Paper No. 13) and page 4 of the Office Action dated December 10, 2001 (Paper No. 9).

The claims have been further amended to advance prosecution, without prejudice. Entry of the above amendments will place all the claims in condition for allowance, for the reasons noted below such that entry of the amendments will advance prosecution. Entry of the amendments is requested.

To the extent not obviated by the above amendments, the Section 102 rejection of the claims 1-3, 8-10, 15-22, 28-34 and 37 over Ohno (EP 0751170) is traversed. Reconsideration and withdrawal of the rejection are requested in view of the following distinguishing comments.

Ohno et al describe triazinyl group- or pyrimidyl group-containing aminosilicone represented by the formulae (1) to (7) as gelling agent. The triazinyl group and pyrimidyl group are heterocyclic groups having 3 or 2 nitrogen atoms respectively. This group can

be compared to the Y group of the invention, which Y group is a monocyclic or polycyclic, unsaturated hyrocarbon group and not a heterocyclic unsaturated group.

Therefore, the polyorganosiloxanes of the presently claimed invention do not have triazinyl or pyrimidyl, end or side group(s). They have a chemical structure different from a triazinyl group- or pyrimidyl group-containing aminosilicone of Ohno et al, which are used as gelling agent, and the method of gelling a cosmetic composition using a silicone as defined in the claims, as a gelling agent, is not anticipated by Ohno. The composition claims are submitted to be similarly patentable over the cited art and withdrawal of the Section 102 rejection of claims 1-3, 8-10, 15-22, 28-34 and 37 over Ohno is requested.

The Section 103 rejection of claims 23-27, 35 and 36 over Ohno and Mellul (U.S. Patent No. 5,738,841) is traversed. Reconsideration and withdrawal of the rejection are requested in view of the following distinguishing comments.

The presently claimed invention allows for the removal of the usual gelling agent in a cosmetically acceptable medium, by using specific polyorganosiloxanes (as described in claims 1 and 8) comprising amino acid derived group and/or carboxylic acid, amine or phenol group represented by the formula $-X-(Y)_n-Z$, Y being a monocyclic or polycyclic, unsaturated hydrocarbon group.

The use of these specific polyorganosiloxanes in cosmetic composition results in the gelation of the medium and in obtaining the longest possible duration of the cosmetic and/or care effect(s) (page 2, lines 24-28 and examples 1 to 3).

Ohno et al describe triazinyl group- or pyrimidyl group-containing aminosilcones which are used in liquid oil or silicone oil in order to obtain compositions extending from gel-like compositions to viscous materials (page 13, lines 23-25). The silicones of this document can gel silicone oil and/or liquid oil or can increase the viscosity thereof stably and homogeneously (page 2, lines 41-43 and page 16, lines 48-49). Consequently, the technical problem raised in this document in the gelation of liquid oil or silicone oil was solved by the use of triazinyl group- or pyrimidyl group-containing aminosilicones represented by formulae (1) to (7).

Furthermore, this document teaches that triazinyl group- or pyrimidyl group-containing aminosilicone as described therein can be used as bases for cosmetics (page 13, lines 43-43).

There is no indication nor suggested in Ohno for one of ordinary skill in the art to replace triazinyl or pyrimidyl groups by polycyclic or monocyclic hydrocarbon groups or by groups derived from amino acids, as required by the presently claimed invention.

Moreover, Ohno does not teach or suggest cosmetic compositions comprising a silicone as presently claimed in order to obtain a gelation of the cosmetically acceptable medium and the properties provided by the presently claimed invention (for example, a good staying power over time of a lipstick (example 1), a long lasting, glossy colouring effect of a lip gloss (example 2)).

Therefore, Ohno never indicates nor suggests a change in the structure of triazinyl group- or pyrimidyl group-containing aminosilicones in order to obtain a method of gelling using a different silicone and a composition according to the present claims.

Mellul et al describe cosmetic compositions comprising at least one silicone-containing compound and octyldodecyl neopentanoate as a compatibilizing agent, and optionally hydrocarbons.

Mellul is concerned with improving the compatibility between silicones and hydrocarbons. Mellul et al have found that octyldodecyl neopentanoate functions as a compatibilizing agent.

Mellul uses silicones, chosen from silicone oils, gums and/or waxes (col. 2, lines 47-49). Particular examples are given in col. 2, line 50-col. 3, line 6. None of these silicones has the same structure as the presently claimed invention.

Consequently, Mellul et al provided no further motivation either alone or with Ohno which would have led one of ordinary skill in the art to produce a method of gelling and the cosmetic composition of the presently claimed invention.

There was no suggestion for one of skill in the art, when considered Ohno et al in view of Mellul et al, to modify the structure of silicones in order to gel a cosmetically acceptable medium, as claimed.

Claims 23-27, 35 and 36 are submitted to be patentable over the art and withdrawal of the Section 103 rejection of the same is requested.

The claims are submitted to be in condition for allowance and a Notice to that effect is requested.

MONDET

Serial No. 09/848,462

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____

A handwritten signature in dark ink, appearing to read 'B.J. Sadoff', written over a horizontal line.

B.J. Sadoff

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

Amend the claims as follows:

1. (Three Times Amended) A method of gelling a cosmetic composition comprising adding to a cosmetic composition, as a gelling agent, at least one linear or cyclic polyorganosiloxane which comprises at least two organosiloxy units and at least two side groups or end groups, each of said groups being capable of forming at least one hydrogen bond with one or more partner groups, the said organosiloxy units being represented by the following formula:



in which:

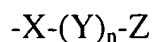
R represents a linear, branched or cyclic alkyl group, an aryl group, a polyether group or a fluoro group,

R' represents a group capable of forming at least one hydrogen bond,

a is 1, 2 or 3, and

b is 0 or 1, with the proviso that a+b is equal to 2 or 3, the said group R' being selected from the group consisting of:

- (a) a group derived from an unprotected or partially protected amino acid, and
- (b) a carboxylic acid, an amine or a phenol group of formula:



in which:

X represents a linear, branched or cyclic alkylene or alkenylene spacer chain, optionally comprising one or more hetero atoms in the chain,

Y represents a monocyclic or polycyclic divalent unsaturated hydrocarbon-based group [or a divalent unsaturated heterocyclic group], said polycyclic [or heterocyclic] group optionally comprising up to 4 fused rings,

n represents an integer ranging from 1 to 4, and

Z represents a -COOH or -OH group or a primary, secondary or tertiary amine group.

8. (Three Times Amended) Cosmetic composition comprising, in a cosmetically acceptable medium, at least one linear or cyclic polyorganosiloxane, which comprises at least two organosiloxy units and at least two side groups or end groups which are each capable of forming at least one hydrogen bond with one or more partner groups, the said organosiloxy units being represented by the following formula:



in which:

R represents a linear, branched or cyclic alkyl group, an aryl group, a polyether group or a fluoro group,

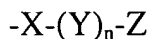
R' represents a group capable of forming at least one hydrogen bond,

a is 1, 2 or 3, and

b is 0 or 1, with the proviso that a+b is equal to 2 or 3,

the said group R' being selected from the group consisting of:

- (a) a group derived from an unprotected or a partially protected amino acid, and
- (b) a carboxylic acid, an amine or a phenol group of formula:



in which:

X represents a linear, branched or cyclic alkylene or alkenylene spacer chain, optionally comprising one or more hetero atoms in the chain,

Y represents a monocyclic or polycyclic divalent unsaturated hydrocarbon-based group [or a divalent unsaturated heterocyclic group], said polycyclic [or heterocyclic] group[s] optionally comprising up to 4 fused rings,

n represents an integer ranging from 1 to 4, and Z represents a -COOH or -OH group or a primary, secondary or tertiary amine group.